

**SUMMARY OF CRIMINAL HISTORY CHECKS LEGISLATION
FOR CHILD AND ADULT CARE PROVIDERS
Alabama Act 2000-775**

1. Alabama Act No. 2000-775, signed by Governor Siegelman on May 25, 2000, requires Alabama and national FBI criminal history checks on staff in certain DHR positions and on personnel of DHR-licensed child and adult care facilities, students, mentors, volunteers, and DHR contract providers. Licensed social workers who conduct home studies may also request criminal history checks as provided by the law.
2. The effective date of the new law is November 1, 2000.
3. Alabama and national (FBI) criminal history checks, with two sets of fingerprints, will be required of applicants for approval, approved providers, volunteers, current and prospective employees of child-placing agencies and DHR-licensed, approved, or certified child and adult care facilities, and DHR employees in certain positions. Individuals with severe hand or finger deformities are exempt from the fingerprint requirement but not the criminal history check requirement. The term "child or adult care facilities" includes any child-placing agency or DHR-licensed or approved child or adult program, such as centers, homes, and residential programs. Criminal history checks with fingerprints will also be required on all adoptive and foster parents (for children and adults) and on adult members of foster and day care homes. Only one criminal history check per individual will be required. Child and adoptive home parents who have already had Alabama and FBI criminal history checks with fingerprints completed are not required to complete another check. Individuals who have completed Alabama and FBI criminal history checks with fingerprints through the Department of Education are not required to complete another check. The Department of Public Safety and DHR will be required to update criminal history status automatically and maintain a file on each person. This will eliminate the need for subsequent criminal history checks, unless the file has been lost or misplaced. The name, address, birth date, race, sex, and Social Security number of the individual must be verified by a valid identification document, such as a Social Security card or driver's license, issued by a governmental agency.
4. Employment/License/Volunteer Applicants: All licensed child and adult care providers and child-placing agencies will be required to obtain a signed statement (Mandatory Criminal History Notice) from all employment and volunteer applicants disclosing any criminal convictions prior to or on the date of application. (A copy of the Mandatory Criminal History Notice form is attached for your information.) DHR will be required to obtain a similar statement from all volunteer applicants and applicants for a DHR license, approval, or certification to operate any child or adult care facility. Child-placing agencies will be required to obtain a similar statement from all employment, volunteer, and foster family home applicants. If no disqualifying conviction is revealed, an employment or volunteer applicant may be allowed to work as a volunteer or contract provider or hired provisionally pending receipt of a suitability determination letter from DHR. There is no provision for provisional licensing, approval, or certification pending receipt of the suitability determination from DHR. A Criminal History Release form must also be completed requesting a complete criminal history check, with fingerprints and fee, and must be mailed to the Department of Public Safety within five days of beginning work or employment or a reasonable time after application for license, approval, or certification. (A copy of the Criminal History Release form is attached for your information.) An employee, volunteer, or contract provider hired or allowed to work provisionally may remain employed or in volunteer status until the suitability determination letter from DHR arrives. If the letter states that the individual is unsuitable based upon his or her criminal conviction history, the individual must be terminated but can continue working at the employer's discretion if the Department of Public Safety report or DHR determination is challenged by the individual. If the employee or volunteer intentionally falsified the pre-employment statement, the individual is to be terminated and referred for possible criminal prosecution.
5. Current Employees/Licensees: All current licensees (including those holding approvals or certifications) and employees of child-placing agencies or DHR-licensed, approved, or certified child or adult child care facilities, including current adult members of foster and day care homes, will have to complete a Criminal History Release form and submit fingerprints and the fee. No Mandatory Criminal History Check Notice form listing convictions is required to be completed.

6. Current Volunteers: All unpaid individuals who currently provide services to or supervise children, the elderly, or individuals with disabilities in care for any child-placing agency, DHR, or any child or adult care facility are required to complete a Criminal History Release form for a criminal history check with fingerprints and pay the fee. The term “volunteer” does not include the parent, family member, legal custodian, or legal guardian of a person in care.
7. The Department of Public Safety will send DHR a criminal history report after receiving a criminal history release form and fee. The criminal history report will not be sent directly to a provider or child-placing agency. Thereafter, DHR will issue suitability determination letters to providers and child-placing agencies based upon the existence of any disqualifying criminal conviction. The procedure is similar to the one used for teachers in which the State Department of Education receives reports and issues suitability determinations to local school systems. A list of the disqualifying convictions is included in the Mandatory Criminal History Check Notice form (attached).
8. Appeal: DHR will send individuals on whom criminal history checks are requested a copy of the criminal history report sent to DHR and the DHR suitability determination letter issued on the individual. If the content of the criminal history report is disputed by the individual, a contest may be filed with the Department of Public Safety. If DHR issues a determination that an individual is unsuitable for employment, licensure, or volunteer work, the individual may, within 30 days of notice, request reversal of the determination based upon proof of successful rehabilitation, provided the person has not been convicted of a sex crime or a crime against a child or an elderly or disabled person. A request may not be made unless five years have passed for misdemeanors and ten years for felonies from the end of the sentence or probation or parole, whichever is later.
9. Cost: The cost of a complete Alabama and FBI criminal history check is \$49 per person. Either the applicant, employee, volunteer, employer, or the agency may pay the fee. Employers and agencies will either have to pay the fee for current providers, employees, or volunteers or require them to pay the fee. However, no current employee may be required by an employer to pay the fee if doing so would violate federal minimum wage requirements. DHR has allotted \$1.5 million in child day care funds to pay the cost of criminal history checks for 30,000 current child day care providers and their staff, as well as for volunteers and adults in child day care facilities. DHR will also continue to pay the fee for child foster and adoptive parents and their families licensed, approved, or certified by DHR.
10. Exempt facilities: Child and adult care facilities exempt from DHR licensing, approval, or certification, such as facilities licensed by other agencies, schools, and church affiliated child care facilities, are not required to comply with the new law but may voluntarily do so. Exempt child care facilities which do not comply with the law may not receive any child day care subsidy money from DHR. Although church affiliated programs may choose not to comply with the law themselves, all current employees and employment applicants with such programs are required to complete a Criminal History Release form for a criminal history check, with two sets of fingerprints, but are not required to complete the Mandatory Criminal History Notice form disclosing their criminal conviction history. Upon reasonable suspicion that the law is not being followed, DHR is authorized to require verification from individuals in church-affiliated programs that a criminal history check has been completed.